

**SENATE CS FOR CS FOR HOUSE BILL NO. 75(RES)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

**BY THE SENATE RESOURCES COMMITTEE**

**Offered: 4/26/05**

**Referred: Finance**

**Sponsor(s): REPRESENTATIVES KELLY, Ramras, Stoltze, Holm, Foster, Meyer, Croft**

**A BILL**

**FOR AN ACT ENTITLED**

1   **"An Act relating to the powers and duties of the commissioner of fish and game, Board**  
2   **of Fisheries, and Board of Game in promoting and preserving fishing, hunting, and**  
3   **trapping in the state; and repealing the power and duty of the commissioner of fish and**  
4   **game to assist the United States Fish and Wildlife Service in the enforcement of federal**  
5   **laws regarding fish and game."**

6   **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7       **\* Section 1.** The uncoded law of the State of Alaska is amended by adding a new section  
8   to read:

9           LEGISLATIVE INTENT. It is the intent of the Alaska State Legislature that the  
10   commissioner of fish and game, the Board of Fisheries, and the Board of Game implement  
11   their authority to promote fishing, hunting, and trapping and to preserve the heritage of  
12   fishing, hunting, and trapping in the state in a manner consistent with scientific fish and  
13   wildlife management principles and the Alaska constitutional principles of common use and

1 sustained yield.

2 \* **Sec. 2.** AS 16.05.050(a) is amended to read:

3 (a) The commissioner has, but not by way of limitation, the following powers  
4 and duties:

5 (1) [TO ASSIST THE UNITED STATES FISH AND WILDLIFE  
6 SERVICE IN THE ENFORCEMENT OF FEDERAL LAWS AND REGULATIONS  
7 PERTAINING TO FISH AND GAME;

8 (2)] through the appropriate state agency and under the provisions of  
9 AS 36.30 (State Procurement Code), to acquire by gift, purchase, or lease, or other  
10 lawful means, land, buildings, water, rights-of-way, or other necessary or proper real  
11 or personal property when the acquisition is in the interest of furthering an objective or  
12 purpose of the department and the state;

13 (2) [(3)] under the provisions of AS 36.30, to design and construct  
14 hatcheries, pipelines, rearing ponds, fishways, and other projects beneficial for the fish  
15 and game resources of the state;

16 (3) [(4)] to accept money from any person under conditions requiring  
17 the use of the money for specific purposes in the furtherance of the protection,  
18 rehabilitation, propagation, preservation, or investigation of the fish and game  
19 resources of the state or in settlement of claims for damages to fish or game resources;

20 (4) [(5)] to collect, classify, and disseminate statistics, data and  
21 information that, in the commissioner's discretion, will tend to promote the purposes  
22 of this title except AS 16.51 and AS 16.52;

23 (5) [(6)] to take, capture, propagate, transport, buy, sell, or exchange  
24 fish or game or eggs for propagating, scientific, public safety, or stocking purposes;

25 (6) [(7)] under the provisions of AS 36.30, to provide public facilities  
26 where necessary or proper to facilitate the taking of fish or game, and to enter into  
27 cooperative agreements with any person to effect them;

28 (7) [(8)] to exercise administrative, budgeting, and fiscal powers;

29 (8) [(9)] under the provisions of AS 36.30, to construct, operate,  
30 supervise, and maintain vessels used by the department;

31 (9) [(10)] to authorize the holder of an interim-use permit under

AS 16.43 to engage on an experimental basis in commercial taking of a fishery resource with vessel, gear, and techniques not presently qualifying for licensing under this chapter in conformity with standards established by the Alaska Commercial Fisheries Entry Commission;

**(10)** [(11)] not later than January 31 of each year, to provide to the commissioner of revenue the names of those fish and shellfish species that the commissioner of fish and game designates as developing commercial fish species for that calendar year; a fish or shellfish species is a developing commercial fish species if, within a specified geographical region,

(A) the optimum yield from the harvest of the species has not been reached;

(B) a substantial portion of the allowable harvest of the species has been allocated to fishing vessels of a foreign nation; or

(C) a commercial harvest of the fish species has recently developed;

**(11)** [(12)] to initiate or conduct research necessary or advisable to carry out the purposes of this title except AS 16.51 and AS 16.52;

**(12)** [(13)] to enter into cooperative agreements with agencies of the federal government, educational institutions, or other agencies or organizations, when in the public interest, to carry out the purposes of this title except AS 16.51 and AS 16.52;

**(13)** [(14)] to implement an on-board observer program authorized by the Board of Fisheries under AS 16.05.251(a)(13); implementation

(A) must be as unintrusive to vessel operations as practicable; and

(B) must make scheduling and scope of observers' activities as predictable as practicable;

**(14)** [(15)] to sell fish caught during commercial fisheries test fishing operations;

**(15)** [(16)] to establish and charge fees equal to the cost of services provided by the department, including provision of public shooting ranges, broodstock

1 and eggs for private nonprofit hatcheries, department publications, and other direct  
 2 services, and reasonable fees for the use of state facilities managed by the department;  
 3 fees established under this paragraph for tours of hatchery facilities, commercial use of  
 4 sport fishing access sites, and for operation of state hatchery facilities by private  
 5 aquaculture associations are not subject to the cost limit under AS 37.10.050(a);

6 **(16)** [(17)] to permit and regulate aquatic farming in the state in a  
 7 manner that ensures the protection of the state's fish and game resources and improves  
 8 the economy, health, and well-being of the citizens of the state;

9 **(17)** [(18)] to operate state housing and facilities for employees,  
 10 contractors, and others in support of the department's responsibilities and to charge  
 11 rent that is consistent with applicable collective bargaining agreements, or, if no  
 12 collective bargaining agreement is applicable, competitive with market conditions;  
 13 rent received from tenants shall be deposited in the general fund;

14 **(18)** [(19)] to petition the Alaska Commercial Fisheries Entry  
 15 Commission, unless the Board of Fisheries disapproves the petition under  
 16 AS 16.05.251(g), to establish a moratorium on new entrants into commercial fisheries

17 (A) that have experienced recent increases in fishing effort that  
 18 are beyond a low, sporadic level of effort;

19 (B) that have achieved a level of harvest that may be  
 20 approaching or exceeding the maximum sustainable level for the fishery; and

21 (C) for which there is insufficient biological and resource  
 22 management information necessary to promote the conservation and sustained  
 23 yield management of the fishery;

24 **(19) to promote fishing, hunting, and trapping and preserve the**  
 25 **heritage of fishing, hunting, and trapping in the state.**

26 \* **Sec. 3.** AS 16.05.251(a) is amended to read:

27 (a) The Board of Fisheries may adopt regulations it considers advisable in  
 28 accordance with AS 44.62 (Administrative Procedure Act) for

29 (1) setting apart fish reserve areas, refuges, and sanctuaries in the  
 30 waters of the state over which it has jurisdiction, subject to the approval of the  
 31 legislature;

1                   (2) establishing open and closed seasons and areas for the taking of  
2 fish; if consistent with resource conservation and development goals, the board may  
3 adopt regulations establishing restricted seasons and areas necessary for

4                               (A) persons 60 years of age and older to participate in sport,  
5 personal use, or subsistence fishing; or

6                               (B) persons under 16 years of age to participate in sport  
7 fishing;

8                   (3) setting quotas, bag limits, harvest levels, and sex and size  
9 limitations on the taking of fish;

10                   (4) establishing the means and methods employed in the pursuit,  
11 capture, and transport of fish;

12                   (5) establishing marking and identification requirements for means  
13 used in pursuit, capture, and transport of fish;

14                   (6) classifying as commercial fish, sport fish, guided sport fish,  
15 personal use fish, subsistence fish, or predators or other categories essential for  
16 regulatory purposes;

17                   (7) watershed and habitat improvement, and management,  
18 conservation, protection, use, disposal, propagation, and stocking of fish;

19                   (8) investigating and determining the extent and effect of disease,  
20 predation, and competition among fish in the state, exercising control measures  
21 considered necessary to the resources of the state;

22                   (9) prohibiting and regulating the live capture, possession, transport, or  
23 release of native or exotic fish or their eggs;

24                   (10) establishing seasons, areas, quotas, and methods of harvest for  
25 aquatic plants;

26                   (11) establishing the times and dates during which the issuance of  
27 fishing licenses, permits, and registrations and the transfer of permits and registrations  
28 between registration areas is allowed; however, this paragraph does not apply to  
29 permits issued or transferred under AS 16.43;

30                   (12) regulating commercial, sport, guided sport, subsistence, and  
31 personal use fishing as needed for the conservation, development, and utilization of

1 fisheries;

2 (13) requiring, in a fishery, observers on board fishing vessels, as  
3 defined in AS 16.05.475(d), that are registered under the laws of the state, as defined  
4 in AS 16.05.475(c), after making a written determination that an on-board observer  
5 program

6 (A) is the only practical data-gathering or enforcement  
7 mechanism for that fishery;

8 (B) will not unduly disrupt the fishery;

9 (C) can be conducted at a reasonable cost; and

10 (D) can be coordinated with observer programs of other  
11 agencies, including the National Marine Fisheries Service, North Pacific  
12 Fishery Management Council, and the International Pacific Halibut  
13 Commission;

14 (14) establishing nonexclusive, exclusive, and superexclusive  
15 registration and use areas for regulating commercial fishing;

16 (15) regulating resident or nonresident sport fishermen as needed for  
17 the conservation, development, and utilization of fishery resources;

18 (16) requiring unlicensed fishing vessels present in or transiting the  
19 waters of the state to report to the department the quantity, species, and origin of fish  
20 on board; in this paragraph, "unlicensed fishing vessel" means a fishing vessel that is  
21 not licensed under AS 16.05.490 - 16.05.530;

22 **(17) promoting fishing and preserving the heritage of fishing in the**  
23 **state.**

24 \* **Sec. 4.** AS 16.05.255(a) is amended to read:

25 (a) The Board of Game may adopt regulations it considers advisable in  
26 accordance with AS 44.62 (Administrative Procedure Act) for

27 (1) setting apart game reserve areas, refuges, and sanctuaries in the  
28 water or on the land of the state over which it has jurisdiction, subject to the approval  
29 of the legislature;

30 (2) establishing open and closed seasons and areas for the taking of  
31 game;

(3) establishing the means and methods employed in the pursuit, capture, taking, and transport of game, including regulations, consistent with resource conservation and development goals, establishing means and methods that may be employed by persons with physical disabilities;

(4) setting quotas, bag limits, harvest levels, and sex, age, and size limitations on the taking of game;

(5) classifying game as game birds, song birds, big game animals, fur bearing animals, predators, or other categories;

(6) methods, means, and harvest levels necessary to control predation and competition among game in the state;

(7) watershed and habitat improvement, and management, conservation, protection, use, disposal, propagation, and stocking of game;

(8) prohibiting the live capture, possession, transport, or release of native or exotic game or their eggs;

(9) establishing the times and dates during which the issuance of game licenses, permits, and registrations and the transfer of permits and registrations between registration areas and game management units or subunits is allowed;

(10) regulating sport hunting and subsistence hunting as needed for the conservation, development, and utilization of game;

(11) taking game to ensure public safety;

(12) regulating the activities of persons licensed to control nuisance wild birds and nuisance wild small mammals;

**(13) promoting hunting and trapping and preserving the heritage of hunting and trapping in the state.**

\* **Sec. 5.** AS 16.43.210(c) is amended to read:

(c) To the extent that the commissioner of fish and game authorizes it under **AS 16.05.050(a)(9)** [AS 16.05.050(a)(10)], the commission may grant an interim-use permit to a person to engage in the commercial taking from a fishery on an experimental basis.

\* **Sec. 6.** AS 37.05.146(c)(21) is amended to read:

(21) commercial fisheries test fishing operations

1           **(AS 16.05.050(a)(14))** [(AS 16.05.050(a)(15))];

2       \* **Sec. 7.** AS 43.75.290(1) is amended to read:

3                       (1) "developing commercial fish species" means those species of fish

4           and shellfish annually designated by the commissioner of fish and game under

5           **AS 16.05.050(a)(10)** [AS 16.05.050(a)(11)];